

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EVELYN MESNEAK,

Plaintiff,

v.

LOWE'S HOME CENTER, LLC,

Defendant.

CASE NO. C17-5958 RBL

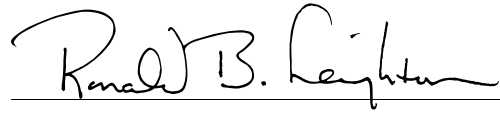
ORDER

THIS MATTER is before the Court on Defendant Lowe's Motion for Summary Judgment Dkt. [14]. The Court has reviewed the materials for and again the motion, and for the reasons below the motion is DENIED.

Plaintiff Mesneak stepped down off a crumbled and eroded curb on Lowe's property. Suddenly, she lost her footing, fell, and injured herself. The curb had obviously been deteriorated for some time. The uneven contour of the curb could have caused Mesneak's fall. She does not remember whether her left foot contacted the crumbled edge of the curb, causing the fall. Nevertheless, the open and obvious nature of a damaged curb raises a question of fact to be resolved by a jury. *Millson v. Lyden*, 174 Wn. App. 303 311 (2013). The Motion is DENIED.

IT IS SO ORDERED.

1 Dated this 27th day of December, 2018.

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3 Ronald B. Leighton
4 United States District Judge
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